

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FELIX TORRES, JR.,
Plaintiff,
v.
HSBC BANK OF NEVADA, et al.,
Defendants.

Case No.: C-07-02350 PVT
**ORDER DENYING REQUEST FOR
REASSIGNMENT TO U.S. DISTRICT
JUDGE**

On August 22, 2007, the court ordered plaintiff to submit further briefing on whether he may consent to a magistrate judge and later withdraw his consent to a magistrate judge and request reassignment to a district judge. Further briefing was due on or before September 25, 2007. Rather than submit further briefing, plaintiff filed a second request for reassignment to a district judge on August 27, 2007.

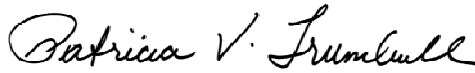
“‘The right to adjudication before an Article III judge is an important constitutional right.’ However, like other fundamental rights, this right can be waived if the parties consent to trial before a magistrate judge. Once a civil case is referred to a magistrate judge under §636(c), the reference can be vacated by the court only ‘for good cause shown on its own motion or under extraordinary circumstances shown by any party.’” *Rogers v. Shepherd*, Slip copy, 2007 WL 2255115 (E.D. Cal.). *See also, McNab v. J & J Marine, Inc.*, 240 F. 3d 1326, 1327 (11th Cir.

2001)(“[A] party’s consent to a magistrate judge’s exercise of jurisdiction under 28 USC § 636(c)(1) must be explicit, voluntary and unambiguous.”).

On May 15, 2007, plaintiff filed his written consent to proceed before a magistrate judge. There has been no showing that consent was not explicit, not voluntary or ambiguous. Moreover, plaintiff has not shown extraordinary circumstances which would warrant vacating the reference to a magistrate judge. Accordingly, plaintiff’s second request for reassignment to a district judge is denied.¹

IT IS SO ORDERED.

Dated: 10/9/2007



PATRICIA V. TRUMBULL
United States Magistrate Judge

¹ The holding of this court is limited to the facts and the particular circumstances underlying the present second request for reassignment to a district judge.